

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FRANK MASCARENA,
Plaintiff,

vs.

MIKE LINDER and LT. BAILEY,
Defendants.

CV 22-77-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on Plaintiff's Motion to Dismiss. (Doc. 19). The Magistrate recommended that the matter be dismissed with prejudice. (Doc. 20 at 2).

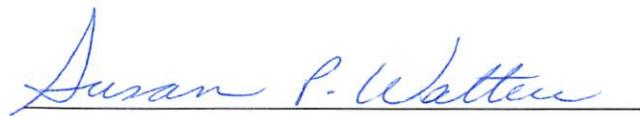
Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 20) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Plaintiff's Motion to Dismiss is GRANTED. Pursuant to 28 U.S.C. § 1915 (e)(2)(B)(ii) and (g) Plaintiff's filing of this action counts as one strike against him. The Clerk of Court shall close this matter and enter judgment against Mascarena, as well as in the consolidated case, CV 22-79-SPW-TJC. Finally, the Clerk of Court shall have the docket reflect that, pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure, any appeal of this decision will not be taken in good faith.

DATED this 15th day of November, 2022.



SUSAN P. WATTERS
United States District Judge